

UNITED STATES DISTRICT COURT
DISTRICT MASSACHUSETTS

CHARLES RASO, TRUSTEE
of the MASSACHUSETTS BRICKLAYERS
AND MASONS HEALTH AND WELFARE,
PENSION AND ANNUITY FUNDS,

Plaintiff,

v.

ASSOCIATED BUILDING SOLUTIONS, LLC
Defendant.

C. A. No. 04-12018 GAO

PLAINTIFF'S MOTION FOR A DEFAULT JUDGMENT

Plaintiffs respectfully move upon his attached Declaration pursuant to Federal Rule of Civil Procedure 55(b)(1) for entry of judgment by the Clerk in the amount of \$60,884.80. In support of its motion, Plaintiff states as follows:

1. Defendant neither filed an answer nor served a responsive pleading in this action and, accordingly, were defaulted on January 14, 2005.

2. This is an action under the Employee Retirement Income Security Act, 29 U.S.C. § 1001 *et seq.* for unpaid pension, health and welfare and annuity contributions. Pursuant to ERISA § 515, 29 U.S.C. § 1145, and ERISA § 502, 29 U.S.C. § 1132(g), the following elements of relief are mandatory for failure to make employee benefit contributions:

- (a) the unpaid contributions,
- (b) the interest on the unpaid contributions,
- (c) an amount equal to the greater of--
 - (i) interest on the unpaid contributions, or
 - (ii) liquidated damages provided for under the plan in an amount not in excess of 20 percent (or such higher percentage as may be permitted under Federal or State law) of the amount determined by the court under subparagraph (A),
- (d) reasonable attorney's fees and costs of the action, to be paid by the defendant and

(e) such other legal or equitable relief as the court deems appropriate.

3. Defendant in this action became liable for delinquent contributions in the amount of \$54,326.98, interest, at contractual determined rate of 1.5% per month compounded monthly in the amount of \$8,441.74, liquidated damages in the amount of \$864.00, and interest on the liquidated damages in the amount of \$66.17 (Declaration of Damages). Of the balance owed, Defendant has made one payment of \$4,139.44. Plaintiffs are also entitled to costs and attorneys fees in the amount of \$1,325.35 (Affidavit of Catherine M. Campbell, and Declaration of Damages).

4. Defendant is neither an infant nor incompetent person nor in the military service of the United States.

WHEREFORE, Plaintiffs' Motion for Entry of a Default Judgment against Defendant should be granted.

Dated: February 4, 2005

Respectfully submitted,

For the Plaintiff,
MASSACHUSETTS BRICKLAYERS AND
MASONS TRUST FUNDS

/s/ Catherine M. Campbell
Catherine M. Campbell
BBO #549397
Feinberg, Campbell & Zack, P.C.
177 Milk Street
Boston, MA 02109
(617) 338-1976

Certificate of Service

I I, Catherine M. Campbell, hereby certify that I caused a copy of the foregoing to be mailed this day by U.S. first-class mail to Jeff Warriner, Principal, Associated Building Solutions LLC, 4 Constitution Way, Suited G, Woburn, MA 01801.

/s/ Catherine M. Campbell
Catherine M. Campbell